

Peter M. Beckerman

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June 11, 2011

Terry Dawson, Assistant to BEP
Office of the Commissioner / BEP
#17 State House Station
Augusta, Maine 04333

SENT BY E-MAIL ONLY

James.P.Brooks@maine.gov (Acting Commissioner)
Patricia.Aho@maine.gov (Deputy Commissioner)
Cynthia.S.Bertocci@maine.gov (BEP Executive Analyst)
Teco.Brown@maine.gov (Bureau Director, Land and Water Quality)

Re: Partial Objection to Conant/Town of Rome May 2, 2011 Consent Agreement;
Request that the BEP Direct the Attorney General's Office to Prosecute

Dear BEP and DEP:

I own the adjacent camp lot to the Rick and Monica Conant camp lot on Great Pond in Rome, Maine. I am also a retired municipal attorney, having represented several municipalities in Central Maine (including Rome for many years) and beyond for 30 of my 31 years as a practicing attorney before retiring about four years ago. During my career I prosecuted many many shoreland zoning violations.

During October and November, 2009 the Conants and their tree-cutter Shane Jones along with the crane operator Ken Works, cut down 12 beautiful huge mature approximately 80-100 year-old 90-foot pines (one of the pines taken down was a split triple pine tree) and one approximately 5-foot diameter massive beautiful split double oak tree, with four of the giant pines being on the immediate shore as well as the massive double oak tree.

In my experience and in my opinion as a private citizen and in my 30 years as a former municipal attorney and Shoreland Zoning prosecutor, this is the most horrendous blatant intentional Shoreland Zoning violation of the slaughtering of beautiful mature trees which I have ever observed, and which also destroyed the tree canopy and drastically changed the environment.

I request that the May 2, 2011 Consent Agreement between the Conants and the Town of Rome require a meaningful 2-for-1 ten-foot tree replanting so that realistically someday the massive mature tree remove by the Conants might someday be restored as required by law. I also request that the BEP direct the Attorney General's Office to prosecute this matter for substantial civil penalties and the Attorney General's attorney's fees. In my opinion without meaningful replanting and prosecution in what in my

opinion is a blatant and illegal removal of these incredible environmentally-needed trees and canopy a great unfairness and travesty would result to the citizens of the State who abide by the shoreland regulations, along with those who have been prosecuted for shoreland zoning violations in the past (including my *Town of Rome v. Fitzgerald* case for the Town of Rome against the owner and contractor for blatant over-cutting on the shore), and as a detriment to those who would so-violate in the future, and as a meaningful penalty to the Conants and their contractors.

My requests to the BEP here and my positions in this matter are also supported by both the Belgrade Lakes Association (BLA) which is over 100 years old and has over 600 members, and the Belgrade Regional Conservation Alliance (BRCA).

We also request notice of the BEP Meeting at which you will be considering this Conant-Town of Rome May 2, 2011 Consent Agreement so that myself and members of the BLA and BRCA may attend and be heard in this matter if requested by members of the BEP.

Not only should the Conants be required to replant additional 2-for-1 ten-foot trees as required by the Rome Selectmen by the First Selectman's November 8, 2010 letter to the Conants which letter also stated that this was DEP's preferred position, and as Rick Conant told me he had agreed with the Rome CEO, but the replanting Consent Agreement in my opinion should also include the following:

1. Be notarized and recorded in the Registry as an encumbrance on the property for all future owners with the cost of such recording to be paid by the Conants.
2. It should also state in no uncertain terms that any re-planted trees are to be maintained in a healthy condition and cannot be pruned or trimmed in any way and must be allowed to completely grow to maturity in both height and girth and with full and complete limbs and limb length.
3. If any replanted tree becomes diseased, injured, or dies it must be immediately replaced with a like tree of equal size.
4. A replanting map/sketch should be attached to the replanting plan and recorded with it.
5. The replanting should be overseen for approval by an agent of the Town (i.e. an arborist) to be paid for by the Conants.

I also request that the six trees to be replanted along the immediate shore be spread out equidistantly along the shore instead of i.e. the two shown on the May 2, 2011 Consent Agreement's sketch plan being planted far to the left (southerly) side (and other trees

shown to be planted tight along the Conants' southerly border behind their camp should instead be planted more toward the center of the lot).

These violations are so egregious that DEP took the almost unprecedented action to serve the Town of Rome with a February 3, 2010 Notice of Violation (NOV) and a fine for failing to enforce these Shoreland violations and for a rigorous re-planting plan (see the attached copy of the NOV and cover letter of February 3, 2010 from Richard Baker, State Shoreland Zoning Coordinator), along with requiring the CEO (whom I consider in my opinion to be so grossly negligent as to be co-complicit) to receive more training.

The Conants purchased this property on August 17, 2005 at Book 8546, Page 262 in the Kennebec Registry of Deeds, being 16 South Crane Lane in Rome, and shown on the Rome tax maps at Map 24, Lot 10. Google satellite maps show that this lot was at the time of such satellite views completely covered with a gorgeous healthy tree canopy, as also partially shown on the left of my attached August 10, 2000 airplane photos of my lot, as well as my "Conant Lot-Prior Owner Photos" of these trees on the Conant lot when owned by the prior owner Rodney Pooler (and which Conant trees also protected the surrounding old-growth trees like those on my little lot next door and which large mature trees on my lot I believe are now in jeopardy).

Also attached here is DEP's older photo of this Conant lot when the last owner violated Shoreland Zoning and which photo shows some of the beautiful mature trees which have been taken down by the Conants along with the shade and protection formerly provided by the full tree canopy on this lot. And also attached here is that September 5, 2002 Rome CEO directive to former-owner Rodney Pooler to re-plant 5-6 six-foot tall trees to replace the three mature trees which Pooler cut down, one of which was the only tree leaning towards the two camp buildings which could be even remotely considered a hazard. Pooler only planted four trees and then removed two of them and since then the remaining to have been trimmed down -- these trees should also be replanted by the Conants with the same above-listed replanting conditions.

My understanding from DEP's Rich Baker who first investigated this matter and spoke to Rome CEO Arthur Thompson is that Rick Conant and some "forester" which he hired met with Thompson at the Conant camp lot sometime around the end of October, 2009. They told Thompson that they planned to take some of the trees on that lot for reasons which seem to be unclear and to me and in my opinion being familiar with these Conant trees for the past 23 years since I have owned my camp, for reasons which in my opinion did not comply whatsoever with the Shoreland Zoning law.

Furthermore, under Rome's Shoreland Ordinance and the State's mandated Shoreland Zoning Guidelines, the Code Enforcement Officer has absolutely no authority or jurisdiction in this matter. The strict Shoreland Zoning requirements for the cutting of trees within the shoreland zone mandate that the burden is on the owner and contractors

Shane Jones and crane operator Ken Works to abide by the law (as does case law from the Courts which hold that the landowner is presumed to have constructive knowledge of the land use laws and regulations that affect his property (*Bishop v. Town of Elliott*, 529A.2d 798 (Me. 1987), *Sibley v. Town of Wells*, 462A.2d 798 (Me. 1983), and *Lockman v. Secretary of State*, 684A.2d 415 (Me. 1996), which held that a reasonable voter must educate himself regarding the measures before him).

CEO Thompson -- without requiring or seeing any written report or documentation from a forester or requiring any forestry plan and even without any specifics of the actual cuttings to take place or any written re-planting or shoreline replacement buffer plan -- and with absolutely no jurisdiction under Shoreland Zoning, allegedly gave some kind of approval to the owner to go ahead and cut, although that in no way mitigates or lessens the responsibility of the Conants or the contractors to obey the Shoreland Zoning law and State/Municipal ordinance regulations in this fragile Great Pond lake environment.

From my reading of the State Shoreland Zoning law, the CEO was totally without authority to get involved with this matter, much less to give any kind of approval to the Conants or Jones or Works, whereby the Courts allow full enforcement action against landowners and their contractors. *Turbat Creek Preservation, LLC v. Town of Kennebunkport*, 753A.2d 489 (Me. 2000), held that there is no estoppel if the landowner [and "the landowner's agent or a contractor" under Title 30-A, Section 4452(2) Liability for Violations] misleads the CEO; and in Cumberland Superior Court Justice Nancy Mills in *Jimino, et al. v. Town of Yarmouth*, Cumberland Dkt.No. CV-00-85, March 10, 2001, held that there is no estoppel to enforce a land use violation when the CEO did not have the authority to issue a building permit. Also, *Dasha III v. Maine Medical Center*, 665 A.2d 993 (Me. 1995) held that equitable estoppel is to be used sparingly and (i.e. against the Town or State in this Conant matter) and only where one party induced another by what amounts to an act of negligence that is equivalent to fraud.

In my opinion, the egregious actions by this slaughter of these magnificent trees for all intents and purposes has basically forever and wantonly destroyed not only the gorgeous canopy of trees but also violated the underlying purposes of Shoreland Zoning as cited by DEP in its Shoreland Zoning literature to maintain water quality, protect wildlife, and to preserve the natural beauty of shoreland areas, and to protect the soil and surrounding sloped watershed environment from rain, runoff, sediment and phosphate runoff, as well as providing ground and soil stabilization.

In the past these beautiful approximately 90-foot canopy trees which have now been cut down attracted all sorts of wildlife including deep-woods wildlife which visited our camp area during the summer. Such great mature trees also absorb carbon dioxide and release oxygen, as well as providing protection by shade and from rain runoff, and provide beautiful aesthetics to the shore and the Lake in this beautiful but extremely

fragile Great Pond where the algae/gloeotrichia have increased dramatically while the water tests have deteriorated greatly over the last 10 years. And aesthetics are a major underlying purpose for Shoreland Zoning and for the lake environment in Maine.

DEP literature regarding the need to protect trees and vegetation in the Shoreland also emphasizes that the removal of such natural vegetation causes phosphorus and nitrogen runoff (nutrient runoff), and an increase in the concentration of phosphorus within a lake of just one part per billion can result in a decrease in water quality. Such literature makes it clear that "Nutrient runoff into surface waters can be reduced or prevented by maintaining an uneven-aged stand of trees..." And besides the loss of water quality "Valuable habitat is lost, and disturbance of wildlife is greatly increased by the loss of a vegetative screen." As a result, waterfowl, songbirds, shore birds, and mammal populations are negatively affected and, regarding natural beauty "excessive removal of trees and other natural vegetation is not in the best interests of the people of Maine."

In the five full summer seasons that the Conants have owned this property they have stayed there overnight very few times. They informed me soon after they purchased this property that they purchased this property for investment/rental purposes. They have been gradually fixing up the interior and exterior of the two camps on this approximately 2,100 square-foot half-acre lot.

During the summer of 2009, among other things, they had the roof of the second cottage re-shingled and in late September or early October I was out there and Rick and Monica Conant were sweeping pine needles off the flatter section of one of the newly re-shingled roofs and complaining about the amount of pine needles which had fallen everywhere.

On Monday, November 9, 2009 at about 3:00 p.m. I went out to my little log cabin camp to retrieve some things and -- even after having been a municipal attorney for 30 of my 31 years in practice -- I saw in my opinion the most egregious devastating blatant massive old-growth tree slaughter I have ever witnessed. As can be seen by my November 10, 11, and 17, 2009, and March 1, 2010 photos attached, 14 beautiful huge 90-foot-or-more mature pines were cut down (one of the pines taken down was a split triple pine tree) plus one incredible approximate 5-foot diameter beautiful double oak tree down by the water and including four beautiful mature pines right on the bank of the Lake and in front of the Conant porch, which porch is set back only about 10 feet from the top of the bank which these trees held together. I immediately called the Conants at their home and left a message, as well as leaving a message for the Rome CEO Arthur Thompson. I also left a message for Rich Baker at DEP.

These straight trees cut down amounted to thousands of board feet as well as a substantial amount of money according to my research through a well-known lumber broker.

Rick Conant called me at my home on Tuesday, November 10, 2009 at 7:52 a.m. and I told him how upset I was and that this was the most egregious violation of mature 100 year-old trees that I had ever seen. He said he didn't see any difference between 50 year-old trees and hundred year-old trees and that he planned "to take down all the trees" and that they were "all dead" but that he had agreed with the Rome CEO that he was to plant two trees for each one he took. I told him how upset I was and that this devastation would have a huge impact on the environment and was illegal and they certainly weren't dead trees and that I had called DEP. I told him that trees would have to be planted along the bank and a rip-rap buffer be established, also. He said he would plant the trees wherever he wanted and was not going to plant any along the shore (this tells me as a former shoreland prosecutor and in my opinion that these magnificent trees were destroyed for egotistical "water view"). He said he didn't have a plan by a certified DEP arborist. He said the roots are still there to hold the bank together. I told him that would only be temporary. I told him that the pictures which I took showed that the additional trees remaining were also all healthy.

It should be noted that the Maine Department of Agriculture investigated this matter as to their licensing of Shane Jones as a utility arborist and who cut these great trees. The Department of Agriculture determined that incredibly Monica Conant marked the trees to be cut and Jones and Works went ahead and cut them. It should be noting further that there are still four other mature 90-foot pine trees out there which are still marked with "Xs" but which were not cut because DEP stepped in and which four "X" trees prove in my opinion that the trees cut down were all healthy (although Rich Baker after-the-fact thought that one or possibly two pine trees might have had some internal rot but by which the law requires that the canopy still be restored regardless).

Furthermore, now that the Conants have taken down the six magnificent trees along the shore in front of their camp, to add even more insult to injury in my opinion they have erected a high-intensity unshielded spotlight out onto the lake from near the peak of their camp roof.

On Tuesday, November 10, 2009 at 12:00 p.m. I met Rich Baker at my camp and we inspected the Conant/Jones/Works tree cutting. After Rich left I interviewed the person living in the newly-renovated camp on the other side of the Conants and he said that the loggers had been there about a week before.

On Wednesday, Veterans' Day, November 11, 2009 I e-mailed Rick Conant at his office at 6:39 a.m. that Mr. Baker at DEP had directed the Rome CEO to issue

immediate Stop Order and that Conant was to immediately cease and desist all cutting operations of all remaining trees. At 9:30 a.m. that morning I called Rick Conant's engineering firm (ironically he split away from E-Pro Engineering (which firm I encountered when I was a municipal attorney representing Winslow and which I believe ironically stands for "Environmental Professionals") (Rick Conant also told me three summers ago that his solely-owned his RLC Engineering firm and had 20 employees and specializes in wind power (which is ironic and hypocritical to me since those touting wind power say they support the environment)) and I confirmed that his office was open that Veterans' Day, whereby I presume that he got my 6:39 a.m. e-mail.

As I suspected, and even though there hadn't been any cutting for a week, I went out to my camp property at 12:35 p.m. that Wednesday, Veterans' Day, November 11, 2009 and a "Shane's Tree Service" truck along with a huge flatbed "Crane Works" crane truck the owner of which identified himself to me as Ken Works (see my photos) were out there and had already taken down four more huge beautiful trees located on each side of the driveway with one of the trees being the split triple pine tree.

I went over to take pictures of the "Shane" truck and Shane Jones (as I later learned his name) came up to me and tried to block me from taking any pictures including a photo of his truck and ordered me away and said he "was told not to speak to anyone except Arthur Thompson" [the Rome CEO] and I told him this was Veterans' Day and Arthur Thompson wasn't working and that DEP had directed that Arthur Thompson put a Stop Order on this cutting and I asked him if he was a licensed arborist and he said he was and that he was just trying to make a living. I told him he should be ashamed of himself for what he did to this shoreland area. When I continued to take pictures from my own property he threatened to "call the Sheriff" and actually pulled out his cell phone and did some dialing or pretended to (see my November 11, 2009 photos). I told him that it would be good to call the Sheriff. He never called "the Sheriff."

In my opinion, both Jones' actions and words and the actions and words of Rick Conant including Jones and Ken Works cutting out there on Veterans' Day immediately after I had called Conant to complain and told him I had called DEP, show great guilt that they knew they were violating Shoreland Zoning. There are still four more beautiful healthy pines out there with "X's" on them which, to me, along with the healthy straight timber on the ground as shown in my photos, is proof that the Conants and their contractors destroyed healthy beautiful mature trees all well within 250 feet of the normal high water mark with six huge trees (the huge oak tree was a split double tree) being within just a few feet of the shore. At 1:00 p.m. Jones and Works finished packing up the trucks and left.

I learned from Rich Baker of DEP that at Mr. Baker's request Arthur Thompson on Tuesday, November 10, 2009 called Monica Conant and told her he was issuing a Stop

Order and she told him that they were through cutting anyway. This of course was not true and despite Thompson's Stop Order and my telephone notice to Rick Conant on November 10, 2009 that DEP was getting involved and my e-mail to him at 6:39 a.m. on Veterans' Day November 11, 2009, Jones went out there the very next day on November 11, 2009 Veterans' Day to do even more cutting and went ahead and cut the four large mature pines on each side of the driveway (one was a large single tree and the other was a large split triple pine tree (tree nos. 10 and 11 in my photos), and for which I recommend seeking a fine of \$10,000 for the single and \$30,000 for the triple pine).

I do not believe any of the excuses being made for taking these beautiful trees. After 23 years of owning my camp I am very familiar with the Conant property with which my driveway adjoins and through which I have an easement. As I have observed none of the trees slaughtered were hazards nor was there any tree leaning toward the Conant camp nor were any in any way a hazard since not only did the prior owner Rodney Pooler remove the only possible leaning-three in 2002 (see the Rome CEO letter of September 5, 2002 attached here), but if there was such a tree it was healthy; nor do I believe that the trees in front of the porch, which as the photos show were firmly rooted and very healthy, were in any way a danger to the porch and any such concern was pure conjecture. Such trees along the shore were extremely healthy and had not "uplifted" even in the most extreme wind and weather over the past several decades. This all can easily be verified by visiting the site and viewing the great stumpage remaining.

Furthermore, the Conant excuse for taking the four beautiful trees (one being a triple) on each side of the driveway, as I understand it from Rich Baker, was for access for fire equipment which to me in my opinion does not even pass the straight-face test. Not only have huge septic tank trucks, fuel oil trucks, and service trucks (see my "Conant Lot-Prior Owner Photos") always used that access, but as seen in my photos of Veterans' Day November 11, 2009 the huge four-axle double-tires "Crane Works" flatbed crane truck assisting Jones used that driveway access to take down these huge beautiful trees -- and my driveway connects to the Conant parking lot and driveway where these four trees were located and an emergency vehicle could also have easy access through my connecting property to the Conant property. Also, I have easement access rights through the Conant connecting driveway and have traveled it many many times and there was no reason I could ever see to remove those four beautiful trees which were taken down on Veterans' Day when CEO Thompson was not around. It should also be noted that in my opinion no one could possibly contend that "all the trees are dead," like Conant contended to me -- simply view my photos which show "Xs" on to other beautiful healthy huge trees which Jones did not take after I showed up on Veterans' Day.

It is my opinion, based on my 30 years as a municipal attorney, including my successful Maine Supreme Judicial Court decision in State of Maine v. Town of Franklin, 489A.2d 525 (Me. 1985), that neither Conant nor Jones nor Works can rely on any unauthorized improper permission from the unauthorized CEO. My successful 1985 case defending the Town of Franklin against DEP to keep the Town of Franklin sanitary landfill open specifically states that the Town of Franklin-DEP Order and Consent Agreement (i.e. in this Conant matter, any unauthorized verbal approval of the CEO) was "null and void" because the Selectmen of Franklin (i.e. the CEO here) "lacked the capacity to enter into the agreement." That case also states, "A person dealing with officers or agents of a town does so at his peril, and it is his duty to determine whether parties with whom he is dealing were authorized to make the contract; and if the property owner in the community is charged with an obligation, the authority of the person acting for the town must be established"; and "it was the burden of the State and the Board to prove the selectmen's authority [i.e. the CEO here] to act." (State of Maine v. Town of Franklin, 489A.2d 525 (Me. 1985)) (see, also, Kittery Retail Ventures v. Town of Kittery, 856A.2d 1183 (Me. 2004) where reliance on a Planning Board member's statement was unreasonable because he was not authorized to formally accept the application for review, and equitable estoppel was not allowed; as well as Forrest Associates v. Passamaquoddy Tribe, 760A.2d 1041 (Me. 2000), Struck v. Hackett, 668A.2d 411 (Me. 1995), Cottle Enterprises, Inc. v. Town of Farmington, 1997 ME 78, 693A.2d 330 (Me. 1997), and Lockman v. Secretary of State, 684A.2d 415 (Me. 1996) which holds that a reasonable voter must educate himself regarding the measures before him)..

I ask that you visit this Conant camp lot and actually see firsthand the enormity of the gorgeous trees that were in my opinion slaughtered, and as the overseers of the State's environment and thereby the public welfare and the fragile lake environment in Rome you should be extremely disturbed with what in my opinion are blatant Shoreland Zoning violations by the Conants, Jones, and Works. I ask that you direct that the Attorney General prosecute what I contend to be blatant perpetrators in this matter, noting that not only would all substantial civil penalties be awarded to the State, but the State would also be awarded its Attorney General's attorney's fees (see, i.e. State of Maine v. Patten Corp., 617A.2d 210 (Me. 1992)).

Even after all of my 30 years as a municipal attorney (of my 31 years as a practicing attorney) and enforcing Shoreland Zoning all over Central Maine, I am stunned and sickened by the loss of these beautiful trees -- and I am going to have to look at these lost trees and be affected by the lost beautiful and environmentally-necessary canopy as long as I own my little log cabin camp.

The Maine Department of Agriculture because of the vague standards for an "arborist" which standards are really just applicable to licensing procedures, only issued a "warning" to Shane Jones for acting as a landscape arborist in this Conant tree cutting matter when Jones is only licensed as a utility arborist.

In my opinion there are at least four violations of Section 15(P) of the Rome Shoreland Zoning Ordinance committed by the Conants, Jones, and Works: subsections (P)(2)(2)(a) regarding creating a cleared opening of over 250 square feet in the forest canopy, (P)(2)(2)(b) regarding both not maintaining a rating score of at least 24, and taking more than 40% of the total volume of trees within a 10-year period, and (P)(3) regarding grossly increasing a cleared opening of more than 25% of the lot or 10,000 square feet, whichever is greater, including land previously cleared. Furthermore in my opinion, an additional violation may be brought against the Conants for violating a Stop Order.

Municipal enforcement law at Title 30-A, Section 4452 as well as the Natural Resources Protection Act require complete corrective action and civil penalties. As a former aggressive municipal attorney, I would not hesitate to seek at least \$10,000 per tree and \$20,000 for the large split oak tree and \$30,000 for the large triple split pine tree which were removed, for a total of \$140,000 for the loss of these 14 beautiful mature trees. It should be noted that a \$90,000 civil penalty was issued last year against another perpetrator on Great Pond in Belgrade for grossly over-clearing a lot, but I understand that violation did not include nearly the number of huge beautiful mature trees as did this Conant lot; and over \$600,000 in civil penalties is being sought in a Naples, Maine case against a developer who illegally cleared a shoreland area.

Thank you for taking very seriously what I see in my opinion as egregious Shoreland Zoning violations devastating these 14 environmentally-necessary and beautiful canopy trees on Great Pond, and directing the Attorney General's Office to take immediate action against the Conants, Jones, and Works, including planting at least 2-for-1 ten-foot trees.

Sincerely,

s/Peter Beckerman

Attachments (photos sent by e-mail only and sent in batches per internet server's sending capacity):

- Conant Tree Cutting 11/10/09
- Conant Tree Cutting Veterans Day 11/11/09
- Conant Tree Cutting 11/17/09
- Conant Tree Canopy Removed Photo 3/1/10
- Airplane Photos 8/10/00
- Conant Four "X" Trees 7/27/10
- Conant from Water 6/19/10
- Conant Lot-Prior Owner Photos

Conant Spotlight Unimpeded 6/19/10
DEP Photo of Conant Lot-Prior Owner

cc: Jerry Reid, Senior Assistant Attorney General (by e-mail only)
Nancy Macirowski, Assistant Attorney General (by e-mail only)
Charles Baeder, President of the Belgrade Regional Conservation
Alliance (by e-mail only)
Peter Kallin, Executive Director of the Belgrade Regional Conservation
Alliance (by e-mail only)
Polly Beatie, President of the Belgrade Lakes Association (by e-mail only)
Jack Shultz, Rome Planning Board Member
Various other BLA and BRCA Directors and Members

Dawson, Terry

From: Pbeckermanlaw@aol.com
ent: Tuesday, June 21, 2011 8:47 PM
o: Dawson, Terry; Brooks, James P; Aho, Patricia; Bertocci, Cynthia S; Brown, Teco
Cc: Reid, Jerry; Macirowski, Nancy; maslakrs@roadrunner.com; philducks@yahoo.com; msshannon@roadrunner.com; lynncmatson@gmail.com; selittlefield@willowrunfordogs.com; jackschultz@webtv.net; scott.finlay@wellsfargoadvisors.com; ppbeatie@roadrunner.com; pldcamp@msn.com; Hoytcoco@optonline.net; eberleja@earthlink.net; mheub@earthlink.net; AlanWCharles@gmail.com; thebfords@gmail.com; bla_org@roadrunner.com; Charlie@villageinnducks.com; pbmcmamus14@netzero.com; liz@colorstorminc.com; go2days@aim.com; dick@goodxrays.com; brcapk@gwi.net; csbaeder@fairpoint.net; jschlosser@fabianoil.com
Subject: Town of Rome/"Replanting" by Conant
Attachments: IMG_0508.JPG; IMG_0509.JPG; IMG_0510.JPG; IMG_0511.JPG; IMG_0516.JPG; IMG_0517.JPG; IMG_0519.JPG; IMG_0524.JPG; IMG_0526.JPG; IMG_0528.JPG; IMG_0533.JPG

Dear BEP and DEP:

In my opinion the Conants have added insult to injury. Over the past few days they have "replanted" trees but, as you can see from the photos attached here, in my opinion for the most part they followed neither the letter nor the spirit of even the Town's less-than-minimal May 2, 2011 replanting Consent Agreement.

As you can see from the photos, and contrary to my review of the Consent Agreement, on the immediate shore where they cut four magnificent white pines, instead of spreading the new trees, they planted four white pines (supposedly 10 feet tall) in two pairs inches or barely a foot apart (possibly crushing the root balls?), thereby undermining the entire purpose of even the highly objectionable (to me) less-than-minimal 1-to-1 replanting requirement by the Town -- and perpetuating what I consider their ill begotten "view" while destroying the once-beautiful and environmentally-necessary tree canopy and exposing the shore to erosion and sedimentation runoff on this quite-sloped lot, as well as destroying the aesthetics of the shore. And as you can also see, two of the trees have already had limbs trimmed off along the bottom.

As you can also see, the Conants also planted two skinny oaks almost on top of each other near the shore to replace the majestic huge double oak tree they slaughtered (in my opinion). And to add further insult to injury, and as you can see by the attached photos, up by the driveway where they cut down an incredible triple pine they replanted three little white pines also on top of each other with none of them from what I see coming close to the six-foot requirement and one of them being barely 2 or 3 feet tall.

Further, over the past couple of days the Conants brought in a large stump grinder and ground the stumps of most all of the magnificent trees they cut down, thereby destroying the remaining environmental protection of those former magnificent trees (see photos attached).

As an aside, the covered deck/porch addition on the left was to my knowledge built very unsubstantially by the former owner with a semi-opaque rippled fiberglass roof and never with a permit. When I asked him about it the former owner said that if he got caught and he built it so he

could take it down easily. The Conants have now rebuilt that "addition" with a full roof. They also tore down the nonconforming "grandfathered" cook shed by the right side of the camp (looking from the water), nonconforming uses to be only maintained and repaired so as not to be perpetuated (as held by decades of case law), and totally rebuilt it with all new materials -- also without any permit that I know of (nor should any such permit be allowed, in my opinion). It should also be noted that the last former owner removed two of the four trees he was ordered by written order to replant after he removed one supposedly hazard tree and one incredibly huge white birch tree in the front yard of this camp (which some former CEO allowed him to do to re-build his driveway) -- for which the Conants in my opinion are also responsible to replant.

As the abutter and a former 30-year shoreland visible attorney prosecutor, this entire matter is heartbreaking to me. And my wife is so upset with the environmental damage and the problems that she no longer wants to stay at our little log cabin camp where we used to enjoy the peace and beauty of the lake and the natural environment.

In my opinion this case screams out for meaningful replanting and prosecution.

Sincerely,

Peter Beckerman

Peter M. Beckerman
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Dawson, Terry

From: Pbeckermanlaw@aol.com
ent: Wednesday, June 29, 2011 12:06 AM
ro: maslakrs@roadrunner.com; philducks@yahoo.com; msshannon@roadrunner.com; lynncmatson@gmail.com; selittlefield@willowrunfordogs.com; jackschultz@webtv.net; scott.finlay@wellsfargoadvisors.com; ppbeatie@roadrunner.com; pldcamp@msn.com; Hoytcoco@optonline.net; eberleja@earthlink.net; mheub@earthlink.net; AlanWCharles@gmail.com; thebfords@gmail.com; bla_org@roadrunner.com; Charlie@villageinnducks.com; pbmcmamus14@netzero.com; liz@colorstorminc.com; go2days@aim.com; dick@goodxrays.com; brcapk@ghi.net; csbaeder@fairpoint.net; jschlosser@fabianoil.com; mcroftnlw@yahoo.com
Cc: Dawson, Terry; Brooks, James P; Aho, Patricia; Bertocci, Cynthia S; Brown, Teco; Reid, Jerry; Macirowski, Nancy
Subject: CHANGE OF DATE for Maine BEP to Consider Conant-Town of Rome Consent Agreement

Dear Fellow BLA, and BRCA Members,

I received a telephone call from the Maine Attorney General's Office last Friday that there is no room on the BEP's July 7 agenda to consider the approval or disapproval of the Conant Consent Agreement with the Town on July 7. I was told that it probably will be on the BEP's agenda for July 21, 2011 at 9:00 a.m. The AG's Office will notify me for confirmation of this July 21 date at least a week before, and I will notify all of you.

I ask that you please be present and express the great dissatisfaction of allowing the Conants to just plant 1-for-1 trees (not even equidistant along the shore frontage, but squeezing the four trees into two tight pairs so that there will still be an open view to and from the water -- after destroying the entire canopy that covered this lot -- as seen by the post-tree-slaughter photos below) and walk away without any penalty whatsoever while blaming the, in my opinion, negligent (to say the least) and what I consider to be a co-complicit unauthorized CEO -- when the burden is squarely on the landowner to abide by the shoreland zoning regulations for the cutting of these 14 incredible mature 90-foot 100-year-old magnificent trees.

I firmly believe as a former long-time municipal shoreland prosecutor that there should be 2-for-1 replantings and a huge civil penalty. I also ask that the BLA and the BRCA each sent a letter of disapproval with the Town of Rome's woefully inadequate Consent Agreement and request meaningful deterrent remedies including 2-for-1 replanting and very very substantial civil penalties by prosecution by the Maine Attorney General's Office.

Such letters should be e-mailed to:

terry.dawson@maine.gov (Assistant to BEP)
James.P.Brooks@maine.gov (Acting Commissioner)
Patricia.Aho@maine.gov (Deputy Commissioner)
Cynthia.S.Bertocci@maine.gov (BEP Executive Analyst)
Teco.Brown@maine.gov (Bureau Director, Land and Water Quality)

Thank you,